

ORDINANCE NO. 08-07

ORDINANCE WAIVING A PORTION OF THE MIAMI-DADE LANDSCAPE MANUAL AS ADOPTED AND SUPPLEMENTED BY THE CITY LANDSCAPE MANUAL, TO WIT: 1 TREE FOR EACH 80 SQUARE FEET OF REQUIRED LANDSCAPED AREA AND 10 SQUARE FEET OF LANDSCAPED AREA FOR EACH PARKING SPACE; AND GRANTING A VARIANCE PERMIT TO ALLOW 31 PARKING SPACES, WHERE 103 SPACES ARE REQUIRED; AND ALLOW 7 PARKING SPACES TO BACK OUT INTO THE STREET, WHERE BACK-OUT PARKING IS ONLY ALLOWED IN LOW DENSITY RESIDENTIAL DISTRICTS, CONTRA TO HIALEAH CODE § 98-2197(a) AND 98-2186. **PROPERTY LOCATED AT 1815 WEST OKEECHOBEE ROAD, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of November 28, 2007 recommended approval of this ordinance; and

WHEREAS, the petitioner has proffered a declaration of restrictive covenants offering to utilize the property for commercial activities that do not general excess parking demands and in particular, to not use the property as a medical or dental office, vocational school or daycare facility, to which the City accepts.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The foregoing facts and recitations contained in the preamble to this ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

Section 1a: The below-described property is hereby granted a waiver of a portion of the Miami-Dade Landscape Manual as adopted and supplemented by the City Landscape Manual, to wit granted a variance permit to allow 31 parking spaces, where 103 parking spaces are required; and allow 7 parking spaces to back out into the street

where back-out parking is only allowed in low density residential districts, contra to Hialeah Code § 98-2197(a) and 98-2186, which provide in pertinent part: “Off-street parking areas shall be landscaped according to the latest edition of the Miami-Dade County Landscape Manual for off-street parking and other vehicular use areas, as modified and supplemented by the city landscape manual . . .” and “Backout parking shall be allowed in low density residential districts or areas,” respectively. Property located at 1815 West Okeechobee Road, Hialeah, Miami-Dade County, Florida, zoned M-1 (Industrial District), and legally described as follows:

A PORTION OF TRACT 2, RESUBDIVISION OF ROSEDALE PARK, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 33, PAGE 83, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE NORTHERLY AND WESTERLY LINES OF SAID TRACT 2, AND RUN S 50° 36' 44" EAST, ALONG THE WESTERLY LINE OF TRACT 2 FOR 157.55 FEET TO THE POINT OF BEGINNING OF THE TRACT OF LAND HEREINAFTER DESCRIBED; THENCE CONTINUE S 50° 36' 44" EAST, ALONG THE LAST DESCRIBED COURSE FOR 258.82 FEET TO A POINT OF CURVATURE; THENCE RUN SOUTHERLY AND EASTERLY ALONG A CIRCULAR CURVE TO THE LET, HAVING A RADIUS OF 25 FEET AND A CENTRAL ANGLE OF 39° 23' 16" FOR AND ARC DISTANCE OF 17.19 FEET TO A POINT OF TANGENCY; THENCE RUN EAST ALONG THE SOUTH LINE OF TRACT 2, FOR 180.64 FEET; THENCE RUN NORTH 05° 56' 56" EAST FOR 170.85 FEET; THENCE RUN WESTERLY, PARALLEL WITH THE NORTH LINE OF TRACT 2, FOR 414.25 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPTING THEREFROM THE FOLLOWING PARCEL:

COMMENCE AT THE INTERSECTION OF THE EAST AND NORTH LINES OF SAID TRACT 2; THENCE SOUTH 89°59'24" WEST ALONG THE NORTH LINE OF SAID TRACT 2, AND ALONG THE NORTH LINE OF STUART PROPERTIES SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 80, PAGE 48, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, 1,239.08 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF SAID TRACT 2; THENCE SOUTH 50°36'44" EAST, ALONG SAID WESTERLY LINE FOR 157.93 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE CONTINUE SOUTH 50°36'44" EAST ALONG SAID WESTERLY LINE FOR 114.97 FEET; THENCE NORTH 48°30'57" WEST FOR 94.65 FEET; THENCE NORTH 50°25'14" WEST FOR 16.08 FEET; THENCE SOUTH 89°59'24" WEST ALONG A LINE 100 FEET SOUTH OF AND PARALLEL WITH SAID NORTH LINE OF TRACT 2, FOR 5.55 FEET TO THE POINT OF BEGINNING.

ALSO, LESS AND EXCEPTING THEREFROM THAT PORTION TAKEN PER EMINENT DOMAIN PROCEEDINGS AS EVIDENCED BY LIS PENDENS RECORDED IN OFFICIAL RECORDS BOOK 18664, PAGE 1476, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the

city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Severability Clause.

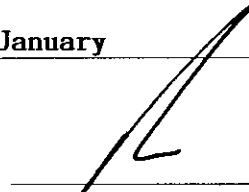
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 5: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 8th day of January, 2008.

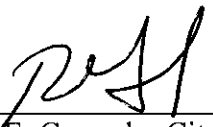
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.



Esteban Bovo
Council President

Attest:

Approved on this 14th day of January, 2008.



Rafael E. Granado, City Clerk



Mayor Julio Robaina

Approved as to form and legal sufficiency:



William M. Grodnick, City Attorney

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Ordinance was adopted by a unanimous vote with Councilmembers Bovo, Caragol, Casals-Muñoz, Garcia-Martinez, Gonzalez, Hernandez, and Yedra voting "Yes".

Prepared by and return to:
City of Hialeah
Planning Division
501 Palm Avenue, Second Floor
Hialeah, FL 33010

**DECLARATION OF RESTRICTIVE COVENANTS
(Corporate)**

(I) (WE), P&O Holdings, LLC

Being the owner(s) of lands described herein:

See Exhibit "A"

The street property address is 1815 West Okeechobee Road, Hialeah, FL.,

The folio number is 04-3013-019-0041,

make the following Declaration of Restrictive covenants covering and running with the above property, specifying that this restriction during its lifetime shall be for the benefit of and a limitation upon all present and future owners of the real property described above, in favor of and enforceable by the City of Hialeah, Florida.

In connection therewith, the undersigned covenants, represents and agrees as follows:

1. The premises located at 1815 West Okeechobee Road, Hialeah, Florida will exclusively be used for commercial activities that would not generate excess parking demands. Accordingly, the property shall not be used as a medical and dental office, vocational school or day care facility.
2. This covenant is intended and shall constitute a restrictive covenant concerning the use, enjoyment, and title to the above-described property and shall constitute a covenant running with the land and may be recorded in the Public Records of Miami-Dade County, Florida. This covenant shall remain in full force and effect and shall be binding upon the undersigned, its (their) heirs, successors and assigns until such time as the same is modified, amended or released and may only be modified, amended or released by a written instrument executed by the then owner having fee simple title to the property affected or to be affected by such modification, amendment, or release; provided, however, the same is also approved by the City Council and the Mayor of the City of Hialeah, or its successors, by resolution, upon advertised notice, or by ordinance if the covenant is adopted by ordinance or as otherwise provided in Hialeah Charter.
3. Where construction has occurred on said property described herein, pursuant to a permit issued by the City of Hialeah, and inspection made and approval of occupancy given by the City, the same shall create a conclusive presumption that the improvements thus constructed comply with the intent and spirit of the restrictions referenced herein and this Declaration of Restrictive Covenants shall not be construed as clouding title of any of said property on which such development has occurred.
4. The property will be developed according to the plans prepared by Emilio Castro, Engineer, dated 11/9/07, within a period of 24 months.

DECLARATION OF RESTRICTIVE COVENANTS
(Corporate)

IN WITNESS WHEREOF, We have hereunto set out hands and seals at
501 Palm Avenue, Hialeah this 8th day of Jan, 2008
(location)

Attest:

Secretary:

Typed/Printed Name

Signed, sealed and delivered in the
presence of:

Witness

Typed/Printed Name

Orlando Raez

Witness

Typed/Printed Name

Miriam Coipe MIRIAM COIPE

Corporate Seal

STATE

OF

Florida

COUNTY

OF

Miami-Dade

The foregoing instrument was acknowledged before me on this 8th day of January
2008 by Boris Litvinov as President, and N/A as Secretary, of
(Name of Officer or Agent) (Name of Secretary)

P&O Holdings, LLC
(Name of Corporation)

corporation, a

Florida corporation.
(State or Place of Incorporation)

They are personally known to me or have produced the following Florida Drivers License L315-060-63-299-3
as identification and did (did not) take an oath and who attest to the truth and accuracy of the EXP. 8-19-12
representations contained herein.

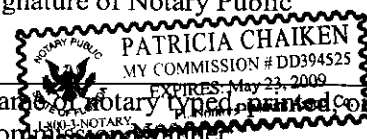
This document was prepared by:

City of Hialeah
Name

501 Palm Avenue
Street

Hialeah FL 33010
City State Zip Code

Patricia Chaiken
Signature of Notary Public


Name of Notary Typed/Printed stamped
Commission Number

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